



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,758	06/29/2001	David A. Zornes	TCHN117645	3654

26389 7590 06/26/2003

CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC  
1420 FIFTH AVENUE  
SUITE 2800  
SEATTLE, WA 98101-2347

EXAMINER

REIFSNYDER, DAVID A

ART UNIT

PAPER NUMBER

1723

DATE MAILED: 06/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

09/898,758

ZORNES, DAVID A.

Examiner

David A Reifsnyder

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM

**THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 11 February 2002.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-37 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-37 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 29 June 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.  
15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)                  4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                  5) Notice of Informal Patent Application (PTO-152)  
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.                  6) Other:

## DETAILED ACTION

### *Election/Restrictions*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-13 and 22-31 , drawn to a composition of matter comprising an adsorbent material; and a magnetic material, the magnetic material being bonded to the adsorbent material with or without a binder material, classified in class 502, subclass 66.
- II. Claims 14-21, drawn to a molecular separation apparatus for controlling the desorption of an adsorbate comprising first and second vessels electrically bonded to an electric swing carbon fiber, classified in class 204, subclass 665.
- III. Claims 32-37, drawn to a composition of matter comprising a non-magnetic material having an attractive capacity; and a magnetic material bonded to the non-magnetic material, classified in class 252, subclass 62.54.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are separate and distinct unrelated inventions. Invention I is a composition of matter comprising an adsorbent material; and a magnetic material, the magnetic material being bonded to the adsorbent material with or without a binder material, while Invention II is an apparatus for controlling the desorption of an adsorbate comprising first and second vessels electrically bonded to an electric swing carbon fiber.

Art Unit: 1723

The composition of matter of Invention I is not even made with the apparatus of Invention II; therefore, Inventions I and II are separate and distinct unrelated inventions.

Inventions II and III are separate and distinct unrelated inventions. Invention II is an apparatus for controlling the desorption of an adsorbate comprising first and second vessels electrically bonded to an electric swing carbon fiber, while Invention III is a composition of matter comprising a non-magnetic material; and a magnetic material bonded to the non-magnetic material. The apparatus of Invention II is not even used to make the composition of matter of Invention III; therefore, Inventions II and III are separate and distinct unrelated inventions.

Inventions I and III are separate and distinct unrelated inventions. Invention I is a composition of matter comprising an adsorbent material; and a magnetic material, the magnetic material being bonded to the adsorbent material with or without a binder material, while Invention III is a composition of matter comprising a non-magnetic material; and a magnetic material bonded to the non-magnetic material. The composition of matter of Invention I includes an adsorbent material and the majority of the claims of Invention I also includes a binder material, while the composition of matter of Invention II does not include an adsorbent material and does not include a binder material. Furthermore, the composition of matter of Invention III includes a non-magnetic material with an attractive capacity, while the composition of matter of Invention I does not have a non-magnetic material with an attractive capacity. Therefore, due to the various differences between the composition of matter of

Art Unit: 1723

Invention I and the composition of matter of Invention III; Inventions I and III are separate and distinct unrelated inventions.

Because Inventions I-III are separate and distinct unrelated inventions for the reasons given above, have acquired a separate status in the art as shown by their different classification, and the search required for all the inventions is different, restriction for examination purposes as indicated is proper.

A telephone call was made to Ward Brown on June 23, 2003 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A Reifsnyder whose telephone number is 1-703-308-0456. The examiner can normally be reached on M-F 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda M Walker can be reached on 1-703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 1-703-872-9310 for regular communications and 1-703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 1-703-308-3601.

*David A Reifsnyder*  
David A Reifsnyder  
Primary Examiner  
Art Unit 1723

DAR  
June 24, 2003